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Jonathan Cotton

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SPAIN

Esteban Astarloa and Patricia Leandro Vieira da Costa[1]

I INTRODUCTION TO DISPUTE RESOLUTION FRAMEWORK

The Spanish legal system is hierarchical. The sources of law are ranked as follows:

i Legal and regulatory provisions

Constitution

The Constitution is at the top of the hierarchy. It provides the basic regulations on fundamental rights and duties, the Crown, Parliament, the government, the relationships between the latter, the judiciary, territorial division, the distribution of powers between the state and the autonomous regions, the Constitutional Court and the procedure to amend the Constitution.

Laws

The Parliament, composed of two chambers, the Congress and the Senate, passes legislation on matters reserved by the Constitution to the state. When a law affects fundamental civil rights and liberties, it is called 'basic law' and is enacted through a special procedure requiring an absolute majority in Congress. Ordinary laws require simple majorities.

Each of Spain's 17 autonomous regions has a parliament of its own, which may pass legislation on delegated matters including health, education, regional infrastructure and the environment, certain taxes and consumer protection, among others.

The basic laws of autonomous regions are called 'statutes', which also require the approval of Parliament. Several autonomous regions have traditionally called for a new statute expanding their powers. However, with the current economic crisis, many

1 Esteban Astarloa is a partner and Patricia Leandro Vieira da Costa is an associate at Uría Menéndez.

autonomous regions have called for a reductions of their powers, transferring part of them back to the central state, in order to reduce their public expenditure. In turn, other autonomous regions have called for expanding their tax powers, to increase their public income.

The relationship between laws (national or regional) is not based on a hierarchical principle but on a material one: different matters or different territorial scopes require different laws.

Decree laws and legislative decrees

Decree laws are approved by the government. They regulate exceptionally urgent matters and must be ratified by Congress.

In addition, Parliament may occasionally authorise the government to make and enact legislative decrees, which have the same rank as law. Legislative decrees are generally used to group and redraft existing laws.

Decrees, ministerial orders and resolutions

Legislation, national or regional, is developed through these three types of provisions. Decrees are issued by the government, ministerial orders by the relevant minister and resolutions by administrative bodies or authorities. In the case of conflict, laws prevail.

ii Custom

In the absence of an applicable law, custom has the force of law, provided that it is substantiated and is not contrary to moral standards or public policy.

iii General principles of law

In the absence of legislation and custom, general principles of law apply. They are unwritten principles underlying the legal system based on concepts such as fairness and logic.

iv Case law

Law is never created by court decisions. However, case law issued by the Supreme Court is highly valued as a source of interpretation and application of the law.

v Court system

The Spanish court system is an independent power within the state. The courts forming the judicial system are structured in five jurisdictions: civil and commercial, criminal, administrative, labour and military. At the top is the Supreme Court, based in Madrid, with jurisdiction over all of Spain, featuring five chambers, one for each jurisdiction.

Civil and commercial

The civil and commercial jurisdiction deals with contractual claims, tort law, family law issues, inheritance and, in general, any matter that is not designated to the other jurisdictions. The courts of first instance are basis of this jurisdiction.

In 2005, specialised commercial courts were created in some of the largest Spanish cities to deal with matters such as intellectual property, bankruptcy and antitrust. Elsewhere, the courts of first instance have competence over these matters.

The decisions of courts of first instance (or commercial courts, where applicable) are subject to appeal before the civil chambers of the provincial courts. A provincial court's decisions can, in certain cases, be challenged before the Supreme Court, but only to determine the correctness of the lower court's application of the law.

Criminal

Criminal cases are investigated by a judge, who is assisted by the public prosecutor (fiscal) and the police. Victims may also be party to the proceedings as private accusing parties. The state or any legal entity (e.g., companies) can also be represented in the proceedings if they are victims.

Except for minor offences or misdemeanours, cases are always heard by a court other than that in charge of the investigation. Offences punished with penalties of up to five years' imprisonment are heard by 'criminal courts' (one judge), while cases involving more serious offences are heard by the criminal chamber of the corresponding provincial court (each chamber being formed by three judges).

The decision can always be appealed before a higher court: if the case is heard by a criminal court, the appeal must be filed before the corresponding provincial court; if the case is heard by the latter, the appeal must be filed before the Supreme Court directly.

Labour

A wide range of employment disputes are heard in this jurisdiction, such as claims regarding work shifts, holiday entitlement, discrimination in the workplace, the right to strike or to challenge disciplinary measures and, more usually, claims for unfair dismissal. In addition to the individual exercise of labour-related actions by employees, trade unions can also act on behalf of their members.

At the first instance, claims are heard by labour courts. Subject to statutory requirements, judgments issued by labour courts can be appealed before the High Court of Justice of the corresponding autonomous region. Likewise, and also under certain circumstances, judgments issued by the High Court of Justice can be appealed before the Supreme Court.

Administrative

Also known as the contentious-administrative jurisdiction, cases related to public authority resolutions, the challenge of general provisions with less standing than a law or of legislative decrees, appeals against a public authority's failure to act and claims linked to the liability of the public authorities and their staff are heard in this jurisdiction.

This jurisdiction is important for companies since it is the legal channel through which they can challenge, among other things, decisions of the regulators of the financial, telecommunications or utilities sectors, or competition decisions.

The equivalent of civil courts of first instance in this jurisdiction are called contentious-administrative courts. Their decisions can be appealed before the High Court of the relevant autonomous region and, under certain circumstances, before the Supreme Court.

Territorial organisation

For organisational purposes, the whole territory is divided into judicial districts covering one or more municipalities. There is always at least one court of first instance and one criminal investigation court in the 'capital' of each judicial district (although in small judicial districts there can be only one judge with dual responsibility).

Labour courts, criminal courts and contentious-administrative courts are situated in the capital of each of Spain's 50 provinces and in certain larger cities.

The courts of appeal are distributed regionally and include the provincial courts, the High Court of Justice of each autonomous region and the Supreme Court.

There is also a central court that combines various levels of jurisdiction called the National Court, based in Madrid but with statewide jurisdiction on matters regarding offences with considerable implications (i.e., terrorism, organised crime), and labour and administrative matters of special importance.

In small municipalities that are not the capital of their judicial district, minor civil matters, misdemeanours and certain civil registry functions are carried out by a justice of the peace.

The Constitutional Court

In theory, the Constitutional Court is not a part of the court system, but a separate and independent national institution that solves disputes between the state and autonomous regions, disputes related to the constitutionality of laws and violations of constitutional rights. However, the Constitutional Court has a flexible notion of its own jurisdiction and has adopted some controversial decisions overruling decisions of the Supreme Court in matters understood by the latter to lack constitutional significance. In practice, the Constitutional Court has at times been perceived by citizens as another instance.

The General Council of the Judiciary

The General Council of the Judiciary is the body in charge of the organisational aspects and inspection of the Spanish courts. The main functions of the General Council of the Judiciary are supervising the activity of judges and courts, selecting and training judges and magistrates and assigning them to a court, and electing from its members its own president and the President of the Supreme Court. The General Council of the Judiciary also nominates two justices to the Constitutional Court. The General Council of the Judiciary must be consulted before national or regional bills affecting the judiciary are passed.

II THE YEAR IN REVIEW

i Legislation

The Ministry of Justice has proved to be proactive during the last two years since the Conservative Party regained power. Some of the draft bills have already reached Parliament and are being discussed in its Justice Commission (or have already been approved by Parliament), and others are still in the hands of the government. Among these, some have been initially approved by the government, but not yet delivered to

Parliament for discussion. And others are still being drafted by the relevant law-making committees within the Ministry of Justice.

Laws already passed by Parliament

Law 1/2013

Law 1/2013, on measures to enhance the protection of mortgage debtors, debt restructuring and social housing rent (it came into force the same day of its publication in the Official Gazette of Spain, which took place on 15 May 2013). It regulates major changes to mortgage foreclosure proceedings, especially in relation to mortgages on the debtor's family home. This Law is a direct consequence of the judgment of the European Court of Justice (ECJ) of 14 March 2013 rendered in the case *Mohamed Aziz v. Catalunyacaixa* (C-415/11). This judgment was issued after a Spanish judge requested a preliminary ruling from the ECJ concerning the interpretation of Council Directive 93/13/EEC of 5 April 1993, on unfair terms in consumer contracts, and its compatibility with Spanish procedural rules. Before Law 1/2013, Spanish legislation did not envisage in mortgage foreclosure proceedings the possibility for the defendants to file an objection based on the unfairness of a clause contained in a contract between a consumer and a seller or supplier (usually, a credit institution) and on which the right to seek enforcement was based. At the same time, the court handling the proceedings in which the possible unfairness of such clause could be assessed was not able to grant interim relief to stay or terminate the foreclosure proceedings and guarantee the effectiveness of its final decision on the fairness of the clause. The ECJ deemed that such procedural rules impaired the protection of consumers aimed by Council Directive 93/13/EEC, especially its provision according to which unfair terms should not be binding on the consumer. As indicated by the ECJ, pursuant to the principle of effectiveness, Members States cannot, with their procedural rules, make it in practice impossible or excessively difficult to exercise the rights conferred on consumers by European Union law. Additionally, the ECJ judgment also provided some guidance for the assessment of the fairness of contractual terms (which, nevertheless, should be assessed on a case-by-case basis).

Law 1/2013 modified mortgage foreclosure proceedings in view of the ECJ judgment, and also established additional measures for the protection of mortgage debtors. In its preamble, the Law makes express reference to Spain's exceptional circumstances exacerbated by the financial crisis and to the numerous individuals that have entered into mortgage loan agreements for the acquisition of their family home and are now having difficulty fulfilling their payment obligations. Among others, the following measures regulated by said Law may be highlighted:

a following the previous Royal Decree 27/2012 (mentioned in the 2012 edition of *The Dispute Resolution Review*) it established the possibility of suspension of evictions from primary homes, when the residents of the mortgaged property are considered 'especially vulnerable' and are in a critical economic situation according to the requirements of the law (evictions could be suspended until 15 May 2015);

b it introduced restrictions to default interest rates in loan agreements granted for the acquisition of the debtor's primary residence;

c pursuant to the ECJ judgment in *Mohamed Aziz v. Catalunyacaixa* (C-415/11), the Law also provided the possibility for debtors to file an objection to foreclosure proceedings based on the unfairness of the clause on which the right to seek enforcement was based;

d it also introduced restrictions to court costs barred by the debtor in foreclosure proceedings on the debtor's primary residence;

e it regulates the possibility of debt partial cancellation, if the value of the mortgage property is not sufficient for the full payment of the debt;

f it facilitates public access to auctions in foreclosure proceedings, in order to foster an increase in the auction price of the immoveable property; and

g it provides that the early maturity of instalment debts requires the non-payment of at least three instalments. Law 1/2013 applies to ongoing foreclosure proceedings in which eviction has not yet taken place.

Needless to say, the ECJ judgment and Law 1/2013 were greatly welcomed in Spanish society, where many families had lost or were at risk of losing their primary homes since the beginning of the current financial crisis.

Basic Law 4/2013

Basic Law 4/2013 amending certain aspects of the regulation of the General Council of the Judiciary (it partially came into force on 30 June 2013). Since it was created by Article 122.2 of the Spanish Constitution, the General Council of the Judiciary has meant a permanent scenario of political turmoil, mainly related to the way in which its 22 members are elected. Pursuant to this new law Parliament has again fixed some rules for the election of the members of the General Council of the Judiciary, trying to avoid the blocking of such election (usually linked to the elections in which a new political party takes the lead). The amendment also deals with some new rules as to the way in which the Council has to work, regarding its international activities, its internal regulation and the possibility that some of its members may also remain working as judges or legal practitioners while in office. The socialist party has announced a constitutional appeal against the Basic Law before the Constitutional Court.

Bills already approved by the government, but not yet subject to discussion in Parliament

Once bills are approved by the government, they may be assessed by other bodies such as the Council of State, the General Council of the Judiciary, the Bar Association and the Public Prosecutor's Office. The bills mentioned under this Section are still pending assessment.

Some of these bills relate to possible new faculties to be attributed to the secretaries to the civil courts, the notaries public, the civil and commercial registrars, and to the legal representatives appointed by the parties in civil contentious or voluntary matters. The Bill of Civil Jurisdiction on Voluntary Matters envisages that the notaries public would be able to celebrate weddings or resolve minor pecuniary claims. Civil and commercial registrars would be able to solve minor disputes in technical matters without bringing them to the courts. The secretaries to the civil courts would be able to solve minor disputes on family and personal matters (such as guardianship, children born outside

marriage, legal disability, etc.). At the same time, the bill to amend the civil procedure law envisages that the court representative would help to make the proceedings more expeditious in acts of communication of the proceedings (i.e., serving documents); collaborating with the seizure of moveable assets or bank accounts; and participating in foreclosure proceedings as depository or judicial administrator of the assets. In view of these bills, the government is considering that certain matters traditionally attributed to the civil courts should from now on lie on other legal experts, decreasing the number of matters, contentious or voluntary, that for years have overwhelmed the civil courts.

Other amendments would be made also to the Civil Procedure Law regarding minor claims trial and the way in which public auctions should be organised. For this purpose, another bill amending the Civil Procedure Law is under study.

ii Court practice

During 2013 consumers have continued to bring individual and class actions against banks and other credit institutions, mainly regarding financial products and mortgage loans. The 'floor clause' included in the general terms and conditions for mortgage loan agreements (which establishes a minimum interest rate, preventing the borrower from benefiting from a decrease in the Euribor index below said minimum rate) has been the subject of controversy for several years. In its judgment of 9 May 2013 (which was clarified by the Supreme Court resolution of 3 June 2013) the Supreme Court ruled that floor clauses are valid as long as they meet the requirements of 'transparency' generally indicated in the judgment (i.e., the consumer must be sufficiently informed about the practical consequences of the floor clauses, especially if the index eventually becomes lower than the minimum floor rate). In this case, a consumer's association had filed a claim against several financial entities and the Supreme Court ruled that the floor clauses used by said financial entities were null and void for its lack of transparency. Those financial institutions were sentenced to remove the clause from their loan agreements. The judgment provided that the existing loan agreements should continue and that the ruling would not affect court decisions or payments made before the publication of the judgment.

Finally, due to its importance for judicial proceedings, the judgment of the Constitutional Court of 7 October 2013 is highlighted, on the use by employers of employees' e-mails as evidence of an irregularity committed by the employee in the course of his or her professional activities. In Spain, the access and use by the employer of the employee's professional e-mail could violate the right to privacy and to the secrecy of communications of the employee (and the e-mail could not be used as evidence in judicial proceedings). In this case, the Constitutional Court ruled that the use of such e-mails by the employer was correct since, according to the applicable collective agreement, the employee could only use the e-mail for professional purposes (hence, it was to be expected by the employee that the employer could monitor his or her e-mails). Additionally, the Constitutional Court deemed that the use of the e-mail by the employer met the proportionality test, among other reasons, because the employee was suspected of carrying out certain irregular activity (which was confirmed by the e-mails).

III COURT PROCEDURE

i Overview of court procedure

Article 120.2 of the Spanish Constitution establishes that proceedings in Spain must be mainly oral, especially criminal proceedings. In practice, all civil, criminal and labour proceedings have written and oral parts. Conversely, administrative proceedings are mainly conducted in writing.

The oral principle is linked to the immediacy principle. Immediacy requires that the judge who renders the judgment be the same as the one that has heard the oral trial and has therefore had direct contact with the parties, the witnesses, the experts and the subject matter of the trial, enabling him or her to form an opinion on the case.

Principles inherent to the structure of the proceedings

Principle of controversy or dual parties

The principle of controversy or dual parties implies that the court is neutral between the claimant and the defendant (or, in criminal proceedings, between the prosecutor and the defendant). The parties must provide the court with all the relevant facts, which must be duly evidenced. The court's task is to consider the allegations and means of evidence provided by each party.

This is not strictly applicable to the investigation stage of criminal proceedings, where, even if the public prosecutor maintains that the suspects are not criminally liable, the judge can continue investigating at his or her own initiative.

Once the investigation stage of criminal proceedings has been concluded, the principle of dual parties is fully applicable for the rest of the proceedings.

Principle of equality of arms

Equality of arms means that the different parties acting in a process must have access to the same resources in forming their respective claims and defences. In other words, each party must be given a reasonable opportunity to present their case under conditions that do not place him or her at a substantial disadvantage. This includes the right to access to all evidence adduced or observations made.

Again, there is an exception to this principle during the investigation stage of criminal proceedings, as the judge and the public prosecutor may have access to information or documents before the parties. However, as soon as there is no risk of compromising the investigation, the parties must have access to the information.

Principles inherent to the object of the proceedings

Principle of initiative (civil or labour proceedings)

According to this principle, only the parties to an action may initiate civil proceedings and may determine the matter under dispute through the initial claim and counterclaim. This principle entails that once the action has been brought before the court, only the parties to the claim may have some bearing on the action. Therefore, the claimant is free to continue or withdraw the claim.

Accusation principle (criminal proceedings)
This principle establishes that no one can be held guilty of an offence without being accused of it.

In certain cases it is difficult to match a particular form of behaviour with the legal definition of an offence, which can result in accusations being made for the 'wrong' offence. In such cases, the accusation principle has been relaxed somewhat by case law in the sense that courts can impose an equal or inferior punishment to that established for the offence made by the accusation, provided that both offences are of the same nature (e.g., robbery and theft).

The right of the defendant to be heard
Also called the principle of audience, this right is applicable in all jurisdictions. According to this principle, no judgment may be rendered against anybody without them having had the opportunity to be heard. This practice entails notifying the defendant of the initiation of proceedings and the main procedural acts, including the notification through an official gazette if his or her domicile is unknown. A breach of this principle would render the proceedings void.

ii Procedures and time frames

All civil and commercial claims must be resolved either through ordinary or oral proceedings.

Ordinary proceedings
Economic claims exceeding €6,000 and some specific matters set out in the Civil Procedure Law regardless of their economic value (most significantly, challenge of corporate resolutions and protection of honour, personal image or privacy) are resolved through ordinary proceedings.

Ordinary proceedings are initiated by filing a claim with the court. Together with the claim, the claimant must file the documents on which it is based (agreements, invoices, letters, etc.). The judicial secretary will examine the claim before issuing an express resolution accepting it. However, in the event that the claim does not fulfil the formal requirements, or when the judicial secretary considers that the court has no competence or jurisdiction over the case, he or she will inform the judge who will then decide on the acceptance of the claim. Once formally accepted, the judicial secretary will serve it upon the defendant, who will be given 20 business days to answer the complaint.

When answering the complaint, the defendant may:

a acknowledge the facts (in which case, judgment against the defendant will be rendered immediately);
b contest the complaint; and/or
c file a counterclaim. The answer to the complaint will be delivered to the claimant and, if a counterclaim has been filed by the defendant, the claimant will be given 20 business days to reply.

Once the defendant has answered the complaint and, as the case may be, the claimant does the same with the counterclaim, or the corresponding terms to answer have elapsed,

the court will summon both parties to a preliminary hearing to try to settle the dispute by agreement or, if this is not possible, preparations for trial will begin, allowing both the claimant and the defendant to specify, clarify or rectify their allegations, raise procedural objections and propose evidence.

In the preliminary hearing, the court will decide on the procedural objections raised, will accept the relevant means of evidence and will fix a date for the trial.

In the trial, the evidence will be produced (examination of the parties, the witnesses, independent experts, etc.) and the parties will present their 'oral conclusions' summarising the facts in dispute and the evidence supporting their allegations.

Following the trial, the court will render its judgment.

Oral proceedings

Complaints with a value or economic interest not exceeding €6,000, as well as injunctive relief actions, disputes over lease agreements, vacant possession actions or actions for the rectification of inaccurate harmful data, will be resolved through oral proceedings.

As in the case of ordinary proceedings, oral proceedings are initiated by filing a claim with the court, attaching the documents on which the claim is based. The judicial secretary or the judge (in the same manner as in ordinary proceedings) must then accept the complaint by express resolution. Once the claim has been formally accepted, the court will directly summon the parties to a hearing.

In this hearing, the defendant will be given the opportunity to respond to the claim orally. Counterclaims in oral proceedings are only accepted in limited cases. The submission and production of evidence will follow, and then the oral conclusions. The court has 10 days to render its judgment.

Summary proceedings

In addition, a special type of proceedings is available for the repayment of economic debts of any amount. It is a fast-track procedure through which parties seek to obtain an enforceable resolution quickly.

The first instance court of the debtor's domicile will be competent to hear the claim. If this domicile is unknown, proceedings will take place in the court with jurisdiction over the place to which the debtor could be summoned to make payment. Neither express nor tacit submissions to alternative courts are deemed valid.

Actions are initiated by filing a brief requesting payment together with a document evidencing that the claimed amounts are due (e.g., a bill, delivery invoice or any other document commonly used in commercial relationships).

If the petition is accepted, the judge will order the debtor to pay or to provide grounds for his or her defence within 20 days. The opposition should consist of a succinct statement of the reasons why the debtor argues that all or part of the debt is not owed.

If the debtor does not oppose and fails to pay, the court will automatically issue an enforcement order for the amount owed.

If the debtor contests, then proceedings will continue as ordinary proceedings, except if the amount of the claim does not exceed €6,000, in which case they will continue as oral proceedings, and the parties will be summoned to a hearing before the court.

Interim relief

The Civil Procedure Law regulates interim relief, allowing the parties to apply for a wide range of precautionary measures (freezing of assets, record in public registries, order to cease an activity or prohibition to carry it out, suspension of the execution of corporate resolutions, etc.) to ensure the effectiveness of the potential judgment in favour of the requesting party. The request will generally be included in the claim, although, exceptionally, the claimant may request interim relief even before filing the claim (in which case, the defendant must file the claim within the following 20 days).

Before adopting the relevant measures, the court will summon the requesting party and the defendant (or potential defendant) to a hearing where they must state the reasons for or against the adoption of the measures.

Again, in exceptional circumstances, the court may order the adoption of interim measures (usually, the seizure of assets) before hearing the affected party, in which case the hearing will take place after the measures have been implemented.

Simultaneously to ordering the adoption of interim measures, the court will require the claimant to provide security covering potential damages to the affected party. In this regard, the claimant usually provides a bank guarantee.

Judicial fee

Recently, the previous payment of a fee has been introduced as a requirement for the exercise of certain judicial actions by individuals. Law 10/2012 regulates the 'fee for the exercise of judicial powers in civil, administrative and labour jurisdictions', the criminal jurisdiction being the only one excluded from the application of such fee (it was recently amended by Royal Decree Law 3/2013).

The judicial fee is generally applicable to:

a the filing of civil claims for the initiation of all types of declarative proceedings (ordinary or oral proceedings) and for the execution of extrajudicial enforceable titles in civil jurisdiction; to the filing of counterclaims; and to the initial petition of summary payment proceedings and of European summary payment proceedings;

b the initiation of compulsory insolvency proceedings and for ancillary claims in insolvency proceedings;

c the filing of judicial claims before the administrative jurisdiction;

d the filing of the extraordinary appeal for procedural infringements in a civil jurisdiction;

e the filing of appeals against judgments and of appeals before the Supreme Court, in both civil and administrative jurisdictions;

f the filing of supplications appeals and of appeals before the Supreme Court, in labour jurisdiction; and

g to oppose the enforcement of judicial titles.

The fee is composed of a fixed rate established in Article 7 of Law 10/2012, as well as a variable rate, depending on the economic value of the judicial claim. If the fee is not duly paid, the judicial secretary will not give leave to proceed to the requested judicial action. Additionally, the fee can be partially recovered if the parties to the judicial proceedings decide to terminate such proceedings due to an extrajudicial resolution of the conflict,

saving costs for the justice system. The fee can also be partially recovered if different claims are consolidated in a single judicial procedure.

There are certain exemptions from payment of the fee, such as in the case of those who have the right to legal aid.

iii Class actions

The Civil Procedure Law regulates class actions. The most important feature of class actions in Spain is that they are reserved for consumer and user associations requesting compensation for damages in favour of consumers and users affected by the same problem, regardless of whether or not they are members of the claimant association.

Consumers are notified of the class action by virtue of an announcement in the media of the geographic area in which the impairment occurred, thus allowing them to 'opt in' and join the class action.

Under Spanish law, the most important consequence of class actions is that the decision will be considered res judicata: no person falling under the scope of the claimant class may bring a suit based on the same facts, on the basis that they were given the chance to litigate and to be compensated by virtue of the class action proceedings.

It is somewhat surprising that there is no 'opt-out' procedure for consumers who wish to initiate proceedings independently. Their only alternative is to have their own independent counsel, albeit in the same proceedings.

The commonality requirement for bringing class actions under Spanish law is also interesting: an action can only be successfully initiated when the cause of the injury is identical in relation to the different consumers or users affected.

iv Representation in proceedings

Spain has a peculiar system of representation. The general rule is that litigants must be represented in the proceedings by a court representative, who is an independent legal professional that acts as an intermediary between the party and the court, filing the briefs that the party's lawyer prepares and notifying the party of the resolutions issued by the court.

Generally, briefs addressed to a court must be signed by a court representative and by a lawyer, except in certain cases where the signature of these professionals is not required and the party may act unaided: complaints for a value or economic interest amounting to a maximum of €2,000, to be resolved through oral proceedings; and requests for monitory proceedings and writs aimed at entering an appearance, requesting urgent measures prior to trial, or requesting the urgent suspension of a hearing or of any other procedural act.

In criminal proceedings, representation by a court representative is optional at the investigation stage, but mandatory as from the trial stage. Legal counsel is mandatory, except in proceedings for misdemeanours.

v Service out of the jurisdiction

The first serving of an initial claim to a person or company domiciled in one of the countries that has ratified the Hague Service Convention will be dealt in accordance with

the legal system established in such Convention, to which Spain is a party. (See Section III, (vii), *infra*.)

In this regard, the Spanish central authority pursuant to the Convention would deliver the claim and attached documents to the other country's central authority, which is responsible for passing them on to the defendant together with a translation of both the claim and the attached documents into the official language of the country.

To answer the claim, the defendant should grant powers of attorney in favour of both a Spanish lawyer and a court representative, who would formally represent the defendant before the courts of Spain. Once the court representative is appointed, all subsequent notifications will be served directly to him or her.

For countries that have not ratified the aforementioned Convention, the principle of reciprocity would apply (generally, notification through letters rogatory).

vi Enforcement of foreign judgments

A foreign judgment is not directly enforceable in Spain, and must first be granted recognition through *exequatur* proceedings. *Exequatur* is the declaration that a foreign judgment can have legal effects in Spain. The recognition and enforcement of foreign judgments in Spain is governed by a number of international instruments ratified by Spain together with Articles 951 to 958 of the Civil Procedure Law.

Recognition of a foreign judgment in Spain may be sought under two major frameworks, and recognition of a foreign judgment under either of these systems set out below must be granted through *exequatur* proceedings, notwithstanding procedural specialities that the applicable treaty may establish.

Conventional recognition and enforcement regime

Spain is a party to many bilateral and multilateral treaties on the recognition and enforcement of foreign judgments, the most important of which are the Brussels Convention of 1968 (superseded by EU Regulation 44/2001; which, in turn, was superseded by the recent European Parliament and Council Regulation (EU) No. 1215/2012 of 12 December 2012, on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters) and the Lugano Convention of 1988.

Internal recognition and enforcement regime

Recognition and enforcement of foreign judgments in the absence of an applicable treaty is based on the reciprocity principle (the party seeking recognition of the foreign judgment proves that the courts of the country of origin would recognise a similar Spanish judgment) together with the fulfilment of certain requirements: the foreign judgment must have been rendered consequent to the exercise of a personal cause of action, and not rendered by default; the obligation to be enforced through the judgment must be lawful in Spain; and the judgment must meet all the necessary requirements for validity in the country where it was rendered and in Spain.

vii Assistance to foreign courts

Assistance to foreign courts is governed by several different sets of rules, briefly explained below:

a EU Regulation 1206/2001 of 28 May 2001 on Cooperation between the Courts of the Member States in the Taking of Evidence in Civil or Commercial Matters. The Regulation provides a swift procedure for the transmission of requests for the taking of evidence directly between the courts of all the Member States of the European Union, with the exception of Denmark.

b The Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters. The system provided in this Convention differs essentially from that outlined in Regulation (EC) No. 1206/2001 in that such requests are not transmitted directly from the requesting court to the required court, but must be addressed to the central authority of the state where the evidence is sought. In Spain, that central authority is the Ministry of Justice's General Directorate for International Legal Cooperation.

c The European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 and the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union of 29 May 2000 establish the procedure for requesting international cooperation when certain enquiries within criminal proceedings must be carried out before foreign authorities.

d Law 2/2003 and Law 3/2003, on the European arrest warrant. It transposes into Spanish law the Council Framework Decision of 13 June 2002, on European arrest warrant and surrender procedures between Member States (2002/584/JAI), establishing the procedure for the application of the European arrest warrant, which is a judicial decision issued by a Member State with a view to the arrest and surrender by another Member State of a requested person, for the purposes of conducting a criminal prosecution or executing a custodial sentence or detention order.

e Spain is also party to many bilateral and multilateral treaties, including the Inter-American Convention on Letters Rogatory.

f Finally, when none of the aforementioned conventions or treaties apply, assistance to foreign courts is governed by Articles 277 and 278 of the Judiciary Law. Cooperation will be granted under this regime under the following conditions: reciprocity between Spain and the state from which the request originates; the request is not contrary to Spanish public policy; the request is authentic and is drafted in Spanish; the request is addressed to the Spanish competent court to perform the taking of evidence; and Spanish courts are not exclusively competent over the proceedings where the evidence sought is intended to be effective.

viii Access to court files

In principle, access to court files is restricted to the parties, their lawyers and their court representatives.

As a general rule, attendance at trial and access to the judgments is public, except when there are reasons to protect the right to privacy of the victims.

In theory, intermediate resolutions or the content of procedural acts other than the trial should not be made public. In practice, the media somehow gain access to this information, and neither the courts nor professional or administrative bodies seem to adopt any kind of action to punish or prevent this practice.

In the investigation stage of the criminal proceedings, under certain special circumstances (risk of destruction of evidence or of compromising the investigation) a court may keep a file secret from the parties. The court's decision must be grounded and the secrecy period cannot exceed one month, extendable for additional monthly periods by subsequent court orders.

ix Litigation funding

There are no specific legal limits to litigation funding by third parties. Of course, when the litigants are civil servants or judges, funding by third parties could be considered bribery.

Litigation funding by third parties is uncommon in Spain. In criminal matters, for instance, third parties can themselves be a party to the proceedings in the exercise of the 'people's accusation', which is certainly more frequent than funding someone else's litigation.

IV LEGAL PRACTICE

i Conflicts of interest and Chinese walls

There are certain Spanish regulations on the protection of information subject to conflicts of interest; however, there are no express regulations on the implementation of Chinese walls in law firms.

In practice, information barriers are a reality in most legal services providers. Chinese walls are undoubtedly allowed and in some cases even an obligation (including for professional legal services) in accordance with professional codes of practice.

In certain cases, especially in large mergers or acquisitions where both parties wish to be advised by the same law firm, the consent of both in writing is requested. This is common in the sale and purchase of companies, when a firm may advise the financing party (e.g., a bank) and the potential purchaser. In these cases there is clearly a conflict of interest, but a Chinese wall is set up by having different teams work for each client (including support staff), avoiding any electronic communication or sharing of information. Chinese walls are more difficult in litigation matters.

ii Money laundering, proceeds of crime and funds related to terrorism

Until 2011, the basic regulations in this field were Law 19/1993 (widely amended in 2003 to adapt it to the provisions of Directive 2001/97/EC) and Royal Decree 54/2005, which developed the aforementioned Law 19/1993. However, Law 19/1993 has been derogated by Law 10/2010 of 28 April, which transposes Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing. Said Directive establishes a general framework regarding money laundering and terrorism financing, which must be completed by each EU Member State. The purpose of Law 10/2010 is specifically to implement and complete this general framework, providing unified regulation for the prevention of money laundering and of terrorism financing, which traditionally had been regulated separately.

A range of non-financial businesses and professions are subject to Law 10/2010 for the prevention of money laundering, including lawyers and court representatives, in the following circumstances:

a when they take part in the preparation or assessment of any transaction on behalf of their clients for the acquisition of real property or companies; the management of funds, securities or any other assets; the opening or management of current accounts, savings accounts or securities accounts; or the creation or management of a company, a trust or any analogue structure; or

b when they act on behalf of their clients in any financial or real estate transaction.

Moreover, Law 10/2010 has introduced a wider definition of money laundering. While the previous regulation limited the scope of money laundering in relation to those goods that had been obtained through criminal offences punished with prison for more than three years, the new law does not include such limitations: money laundering will exist regarding any goods derived from any illegal activity, regardless of the punishment foreseen for such activity.

The new regulation establishes three levels of due diligence measures to be adopted depending on the type of client, business relationship, product or transaction, as well as certain obligations that must be fulfilled. Specifically, the obligations of lawyers or other professionals mentioned are as follows:

a to request the identification documents of the clients who take part in transactions;

b to carefully examine any transaction that could involve money laundering and communicate any suspicious transaction to the Executive Service of the Commission for the Prevention of Money Laundering and Monetary Offences. In this case, lawyers are not allowed to execute the transaction before they make the communication. The obligation to communicate does not apply when the information is obtained to determine the position of the client or to defend that client in any judicial or administrative proceedings;

c to keep all the documents that evidence the fulfilment of the obligations stipulated by Law 10/2010 for a minimum of 10 years;

d to set up an internal structure to comply with the obligations to prevent transactions involving money laundering. Said internal structure includes, among other measures:

- the establishment of a client admission policy;
- the creation of an internal body to control the fulfilment of the indicated obligations; and
- the drawing up of a handbook regarding the prevention of money laundering; and

e to maintain the steps taken in accordance with these obligations.

From a criminal law standpoint, money laundering is dealt with under Article 301 of the Criminal Code, it being a criminal offence to acquire, process or transfer property in the knowledge that it was obtained as a consequence of a crime, or to commit any other act to conceal its unlawful origin or to assist any person involved in the acts with the aim of avoiding the corresponding legal consequences. The reform of the Penal Code introduced by Fundamental Law 5/2010 increases the number of behaviours that can

constitute this criminal offence, including not only the acquisition, process or transfer of property in the knowledge of its illegal origin, but also the possession and use of said property. Moreover, the reform foresees the possibility of holding criminally liable for a money laundering offence the same person who committed the previous crime that constitutes the origin of the goods or properties that are the object of money laundering. Additionally, Law 10/2010 makes express reference to evaded tax debts as being susceptible to money laundering. This implies that tax fraud can constitute the illegal origin of money laundering offences and, consequently, the benefits of said tax fraud can constitute the object of a money laundering offence.

v Data protection

Data protection in Spain is regulated by the Basic Data Protection Law 15/1999 (which entered into force on 14 January 2000) and Royal Decree 1720/2007 (which entered into force on 19 Abril 2008). The authority in charge is the Data Protection Authority (DPA). As to the processing of personal data, the controller must register the creation, modification and deletion of each database with personal data it controls with the Spanish DPA. It is generally necessary to provide information to data subjects on the processing of their personal data and to obtain their prior consent before the implementation of personal data processing. Additionally, when personal data is to be transferred to a country outside the European Economic Area whose regulations have not been identified by the EU authorities as ensuring an adequate level of protection, the controller must generally obtain the DPA's authorisation.

For legal practice, it is important to fulfil the obligations provided by data protection regulation, since personal and private data is frequently reviewed. Data protection regulation is in addition to legal privilege regulation (see Section V.i, *infra*).

iv Other areas of interest

Before 2011, the only requirements to practise law in Spain were holding a law degree and registration in a local bar association. But in October 2011, Law 34/2006 came into force, requiring that those holding a law degree must have professional qualifications in order to practise law. Professional qualifications will be achieved by completing a graduate course organised by a Spanish university (both public and private) or by a local bar association, and after completing an apprenticeship under the supervision of practising lawyers. Satisfactory achievement of a professional qualification is subject to an exam supervised by a commission formed by representatives of the Ministry of Justice, representatives of the Ministry of Education and representatives appointed by each autonomous region.

The new regulation is designed to bring Spanish legislation closer to that of other EU Member States. Nevertheless, Law 34/2006 is still causing significant uncertainty. Private and Public universities are only beginning to adopt the necessary measures to implement the new system.

Recently, Law 5/2012, on mediation in civil and commercial matters, amended Law 34/2006, establishing that the professional qualifications to practise law will not be required by those who obtain a law degree after October 2011 and become a member of a bar association within two years of obtaining such degree. This exception is only

applicable to those who obtain a law degree, not the graduate degree in law adapted to the requirements of the European Higher Education Area (Bologna Plan).

V DOCUMENTS AND THE PROTECTION OF PRIVILEGE

i Privilege

Confidentiality of information exchanged between lawyers and clients is established in the Judiciary Law and in the General Regulation of the Law Profession.

The Judiciary Law states that all lawyers must keep confidential all the facts or information acquired as a result of their professional activity and cannot be required to testify with regard to such facts or information.

There are, however, no express regulations governing 'privileged' or 'without prejudice' documents or communications, as may be the case in common law jurisdictions.

The Professional Code of Practice approved by the General Council of the Spanish Legal Profession in 2002 expressly states that: 'The obligation and right of legal professional confidentiality consists of the confidences and proposals from the client, opposing parties, other attorneys and all facts and documents that have been known or have been received due to any of the different types of professional activity.'

Confidentiality is therefore both a privilege and a legal obligation, encompassing all facts and documents known or received in the exercise of the legal profession. A breach of this obligation could lead to criminal liability as well as sanctions from the Bar Association.

As for in-house counsel, the General Regulation of the Law Profession sets out that the legal profession can also be exercised under an employment relationship. In such case, in-house counsel enjoy the same rights and obligations as external counsel, including the right (and the duty) of confidentiality and secrecy of communications.

ii Production of documents

Under Spanish law, parties may be required to produce any document considered relevant or useful by the court. Article 328 of the Civil Procedure Law establishes that a party may require the other to produce the documents unavailable to the former and related to the subject matter of the dispute or to the effectiveness of the means of evidence.

Although it may seem straightforward, the relevance test of Spanish courts is complex, and the requested document must be directly connected with the dispute.

In Spain, it is important to provide the court with original documents rather than photocopies. Therefore, the parties often request their counterparties to produce original documents. In such cases, the Civil Procedure Law sets out that a copy of the document must be submitted to the court by the party that requests the original or, in its absence, a very detailed description of such document.

Although, as mentioned *supra*, Spain is a party to the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters, it is one of the countries that does not accept letters rogatory issued for the purpose of obtaining pretrial discovery of documents. In fact, there is nothing similar to discovery under Spanish civil law, since a Spanish court would expect the document requested to be

specific, that is, that the requesting party is certain of its existence and that it is that one identifiable document and no other that relates to the general issue.

If documents are held by a third party, in Spain or abroad, the relevance test becomes even more restrictive.

When documents are held by foreign third parties, letters rogatory are sent by Spanish courts requesting that the foreign authorities carry out the pertinent actions to obtain the document.

In summary, Spanish courts are extremely sensitive towards burdensome or disproportionate obligations in this regard, and consequently only specific documents directly related to the litigation may be requested to be produced by the parties or by a third party.

Naturally, criminal investigation courts operate under different standards and often request the parties or third parties (banks, telecommunications companies, airlines, etc.) to provide information or documents. This can be done either at the initiative of the investigating judge or following a petition of the public prosecutor, the police or any party to the proceedings.

VI ALTERNATIVES TO LITIGATION

i Overview of alternatives to litigation

Arbitration and other alternative dispute resolution means are increasingly becoming a real and effective venue for settling commercial disputes in Spain. This section provides a brief outline of the current status of the out-of-court mechanisms in Spain, focusing on arbitration, mediation and expert determination.

ii Arbitration

The Spanish Arbitration Act, together with a number of international instruments ratified by Spain, make up the Spanish arbitration legal framework. Soundly based on the UNCITRAL Model Law, the Arbitration Act is aimed at harmonising domestic regulations with international arbitration standards and thus fostering the development of arbitration in Spain.

In accordance with the spirit of the UNCITRAL Model Law, the Spanish Arbitration Act sets out a unitary regulation for both international and domestic arbitration, with only a few minor rules that exclusively apply to international arbitration. Consequently, the Arbitration Act applies to any arbitration proceedings, either domestic or international, in which the place of arbitration is in the Spanish territory. Another relevant feature of the Arbitration Act is the relaxation of the formal requirements of the arbitration agreement. Although the arbitration agreement must be in writing, recording by other means – such as electronic ones – is also acceptable. In addition, arbitration agreements by reference to a separate document are valid under the Act.

Spanish awards are immediately enforceable, even if a request to set aside the award has been filed. In this regard, the Arbitration Act provides that Spanish awards may only be set aside on the following grounds: the arbitration agreement does not exist or is void; the party challenging the award has not been given proper notice or opportunity to present its case; the arbitrators have ruled on questions not submitted

to their decision; the composition of the arbitral tribunal or the arbitration proceedings have been irregular; the arbitrators have decided on questions that cannot be settled by arbitration; or the award is in conflict with public policy. The action to set aside the award is not an appeal and therefore does not entail a review of the merits of the case. Spanish case law is consistent with this approach, making clear that the scope of review in proceedings to set aside an award is strictly limited to verifying that the essential principles of due process have been observed during the arbitration.

The enforcement of foreign awards in Spain is governed by the New York Convention. Since Spain made no reservation as to its scope of application, the New York Convention governs the enforcement of any foreign arbitration award, even if the place of arbitration is located in a non-contracting state. Spanish courts favour simplicity and expeditiousness when it comes to enforcing foreign awards.

To sum up, the Arbitration Act represents a real breakthrough in developing Spanish arbitration as an efficient alternative to litigation and promoting Spain as an attractive seat for international arbitrations, especially in connection with investments and transactions relating to Spanish-speaking countries. Spanish arbitration institutions and practitioners are fully committed to this active arbitration process, leading initiatives to encourage recourse to arbitration in Spain.

Apart from the publication of new rules for the Court of Arbitration of Madrid, which came into force on 1 January 2009 (intended to be compatible with international arbitration standards and to better adapt to the principles of procedural flexibility and freedom of action), and the launch of the first part of the Code of Good Arbitration Practice from the Spanish Arbitration Club (a guide aimed at compiling general ethical duties and principles that arbitral institutions should observe to enhance confidence in arbitration as an effective means of dispute resolution), the Arbitration Act was amended in 2010 and in 2011.

Law 11/2011 entered into force on 11 June 2011 with the objective of promoting arbitration as an alternative to litigation. The most important aspects of the Law are:

a the reassignment of judicial functions regarding arbitration;

b the possibility of establishing statutory arbitration within companies. Companies may introduce arbitration clauses in their articles of association stating that disputes arising within the company are subject to arbitration;

c an increase in the number of professionals who may be arbitrators;

d allowing the parties, witnesses and specialists and other third parties to resort to their native language in arbitration proceedings;

e the creation of an arbitration procedure designed to resolve disputes among organs of the Spanish public administration;

f the amendment of the Insolvency Act, stipulating that the mere declaration of insolvency does not affect mediation or arbitration agreements with the debtor; and

g the apparent possibility of requesting interim measures prior to the initiation of arbitration proceedings.

The amendment of the Arbitration Act is among multiple initiatives passed by the Spanish legislator to improve and streamline the functioning of the Spanish administration of justice by attempting to reduce litigation.

iii Mediation

For the first time in Spain, mediation is expressly regulated as an alternative to judicial proceedings and to arbitration, by Law 5/2012, on mediation in civil and commercial matters (it came into force 20 days after its publication in the Official Gazette of Spain, which took place on 7 July 2012). It incorporates into Spanish law European Parliament and Council Directive 2008/52/CE, of 21 May 2008, on certain aspects of mediation in civil and commercial matters. The aim of Law 5/2012 is to regulate a fast and effective process of solving conflicts on civil and commercial matters, reducing the burden of litigation weighing down Spanish Courts. According to the Ministry of Justice, mediation should also be cheaper than taking the matter to court, since there is no need for a lawyer and a court representative; and no obligation to pay the judicial fees established by Law 10/2012.

According to Article 1 of Law 5/2012, mediation is a process of solving conflicts, whereby two or more parties to a dispute attempt by themselves, on a voluntary basis, to reach an agreement on the settlement of their dispute with the assistance of a third person, the mediator. The regulation established by Law 5/2012 is flexible, in order to be respectful of the will of the parties involved.

It is applicable to civil and commercial matters, including cross-border disputes, except as regards rights and obligations that are not at parties' disposal under the relevant applicable law. On 27 November 2012, the Spanish Minister for Justice announced before the Chambers of Commerce General Assembly that the process of mediation could be used, on a voluntary basis, in the following cases (among others): family matters; insurance claims; civil liability claims; inheritance conflicts; conflicts within a family company (large or small); conflicts between partners of a small or medium-sized company; conflicts regarding the commercial relationship between companies, or with clients or suppliers; conflicts between the franchisor and the franchised company; and conflicts regarding commercial leases. According to Article 2 of Law 5/2012, this regulation is not applicable to criminal mediation; mediation with the Public Administration; labour mediation; and mediation in consumer matters.

The mediator, the third party that assists the parties in reaching an agreement and in solving the dispute, must be an individual person holding an official university degree or a higher-level vocational degree; and must also have specific training in mediation. The government is currently working on a Royal Decree for the regulation of a registry of mediators and mediation institutions; and of the specific training required for mediators. Additionally, mediators must take out civil liability insurance or other equivalent guarantee to cover their possible liability. The Institutions of Mediation, which are public or private entities that promote mediation (such as Official Chambers of Commerce, Industry and Navigation, as well as Professional Associations), may facilitate access to mediation, including the appointment of a mediator.

The principles of mediation are: free and willing participation (the parties are not obliged to reach an agreement through mediation); equality between the parties and impartiality of the mediator; neutrality; and confidentiality.

During the process of mediation, the parties will not be able to file judicial claims on the same subject being dealt with in mediation. Additionally, if there is an agreement between the parties to submit certain matters to mediation, any of them may oppose

the existence of said mediation clause or agreement before the courts. In this sense, Law 5/2012 introduces amendments to the Civil Procedure Law, taking into account the possibility of solving conflicts through mediation.

The final agreement or settlement eventually reached by means of mediation is binding on the parties. It can cover all or only part of the matters subjected to mediation. If the parties wish it to be enforceable, the agreement should be converted to public deed.

The Spanish Minister of Justice has publicly announced that the Ministry of Justice is already working on the regulation of criminal and administrative mediation.

iv Other forms of alternative dispute resolution

Besides arbitration and mediation, expert determination is considered a valid alternative to litigation in Spain. Expert determination is a flexible procedure for the resolution of disputes based on the decision of an independent third party: the expert. Expert determination is regarded as especially suitable for factual disputes.

The category of expert is regulated under Spanish law. Specifically, the determination by a third party of the exact price of a sale and purchase agreement is governed by Article 1,447 of the Spanish Civil Code. In fact, the issues that are generally subject to expert determination relate to valuation matters, such as the EBITDA of the target company as a basis for calculating the purchase price. Recourse to expert determination is also frequent in disputes in which a high degree of technical knowledge is required, such as those resulting from construction contracts.

Under Spanish law, as well as under other European legal systems, an expert determination may be challenged on a variety of grounds, such as material error or clear bias in favour of one of the parties.

VII OUTLOOK AND CONCLUSIONS

Following last year's trend, the main goal of the government during 2013 has been to address public debt and try to appease social dissatisfaction caused by the current financial crisis. With regard to this last goal, the judgment of the European Court of Justice on the case *Anziz v. Catalunyacaixa* played a fundamental role in the introduction of more effective protection of consumers and mortgage debtors in foreclosure proceedings, through Law 1/2013 (the measures introduced by the latter are much more profound than the ones provided by Royal Decree Law 6/2012 and by Royal Decree Law 27/2012, on the protection of mortgage debtors, mentioned in the 2012 edition of *The Dispute Resolution Review*). The ECJ deemed that, before Law 1/2013, the Spanish procedural rules in mortgage foreclosure proceedings were not compatible with consumer's rights conferred by European Union Law.

The Spanish Supreme Court has also taken a step forward for the protection of consumers of mortgage loans, deeming the floor clauses in loan agreements that lack the necessary transparency null and void (i.e., whose consequences were not made sufficiently clear to consumers).

In addition to the significant cases that have prompted the government and the legislature to enact reforms, the government is still working on enhancing the efficiency

of the administration of justice (so as to reduce costs), and is studying a redistribution of the faculties of different legal professionals.

Furthermore, the new regulation passed on the General Council of the Judiciary has the primary aim of solving an old and long-standing dispute between the different political parties for the election of the members of such body.

Appendix 1

ABOUT THE AUTHORS

ESTEBAN ASTARLOA

Uría Menéndez

Esteban Astarloa is a partner in the Madrid office of Uría Menéndez. He joined the firm in 1989 and became a partner in 2002.

After several years of practice in civil litigation, arbitration and advising on insolvency proceedings, he currently focuses his practice on criminal law, criminal and civil procedural law and international litigation, mainly in white-collar crimes.

Mr Astarloa has advised on some of the major white-collar crime cases in Spain, especially those with international scope (extraditions, letters rogatory, proceedings in other countries, obtaining evidence abroad and enforcement of foreign judgments).

He obtained a law degree and an economics degree in ICADE (Universidad Pontificia de Comillas), where he is a professor in corporate criminal law and in criminal procedure law. Mr Astarloa is also a regular speaker at law seminars and conferences.

He has been listed as a leading individual in the 2010 to 2012 editions of *Best Lawyers in Spain* and included in the 2007 to 2013 editions of *Chambers* (Spain).

PATRICIA LEANDRO VIEIRA DA COSTA

Uría Menéndez

Patricia Leandro Vieira da Costa is an associate in the Madrid office of Uría Menéndez. She joined the firm in 2010 and focuses her practice on criminal law, and especially on white-collar crimes.

Ms Leandro was awarded the recognition of highest honour upon graduating with a law degree from the Universidad Autónoma de Madrid ('Premio Extraordinario de Licenciatura'). She has relevant publications on criminal law, especially on corruption, and is one of the co-authors of the landmark collaborative publication *Código Penal con Jurisprudencia* (Director: Óscar Morales García; ed. Aranzadi, 2013; first edition). She is a member of the Madrid Bar Association.

URÍA MENÉNDEZ
Principe de Vergara, 187
Plaza de Rodrigo Uría
28002 Madrid
Spain
Tel: +34 91 586 04 79
Fax: +34 91 586 04 02
eah@uria.com
www.uria.com